

# **Final Rule**

**RIN 1010-AD06**

**Leasing of Sulfur or Oil and Gas  
in the Outer Continental Shelf  
30 CFR Parts 550, 556, 559 and 560**

## **Summary of Key Provisions**

U.S. Department of the Interior  
Bureau of Ocean Energy Management

# History

- Effort to revise the leasing regulations (30 CFR part 256) began as part of the Clinton Administration's initiative to write regulations in “plain English” in the late 1990’s (Q&A format)
- Proposed Rule was published on May 27, 2009 at 74 FR 25177.

# Overview:

The final rule:

- Reorganizes leasing requirements to more effectively communicate the leasing process, policies and procedures as they evolved over the years, clarify requirements, and add statutory and departmental requirements instituted since the last major rewrite.
- Completely replaces 30 CFR 556 and revises parts 550 and 560, which relate to sulfur or oil and gas leasing requirements.
- Removes prior part 559 and incorporates its provisions into the final rule part 560.
- Does not include substantive changes to part 556, subpart I, Bonding, which will be the subject of a separate rulemaking as the risk management program is developed.
- Codifies many existing bureau policies and practices.
- Corrects some errors that occurred when regulations were reorganized after the MMS was split into three separate agencies.

# Definitions

Many new and revised definitions are included in final rule § 556.105:

- Defines “You” – currently, this term is defined in part 550 only.
  - You means any party that has, or may have, legal obligations to the Federal government with respect to any operations on the OCS in which it is or may become involved. Depending on the context of the regulation, the term “you” may include a lessee (record title owner), an operating rights owner, a designated operator or agent of the lessee, a predecessor lessee, a holder of a State or Federal RUE, or a pipeline ROW holder.
- Defines terms related to ownership and assignments of record title interests and operating rights, including:
  - Lessee (record title owner), Operating Rights, Operating Rights Owner and Operating Rights Tract.
- Defines various key leasing units, such as:
  - Planning area, Tract, Bidding unit, Development block, and Aliquot or Aliquot part.
- Defines “Right-of-Use and Easement” versus “Right-of-use” in current § 550.105.
- Defines “Right-of-Way” vs. “right-of-way pipeline” found in § 550.105 and clarifies that a right-of-way authorization is issued by BSEE.

# Qualification

- The final rule states for the first time that in order to bid on, own, hold, or operate a lease on the OCS, bidders, record title holders, and operating rights owners must first obtain a qualification number from BOEM. (§ 556.400)
  - RUE holders (§ 550.160) and ROW holders (§ 250.1009) are also required to obtain a qualification number.
- Updates the list of the types of entities that may qualify; for example, added LLC and Trust. (§ 556.401)
- Explains more clearly what information is needed to qualify and obtain a qualification number and requires that any evidence submitted to qualify be “acceptable to BOEM.” (§ 556.401 - § 556.402)
- Specifies that every qualified entity must maintain a list of persons who are authorized to do business with BOEM and update this list as the qualified persons change. (§ 556.402).

# Disqualification

The final rule updates the disqualification provisions:

- § 556.403 - a party may become disqualified from holding an OCS lease or grant if:
  - (a) the party or its principals is excluded or disqualified from participating in a transaction covered by Federal non-procurement debarment and suspension (2 CFR parts 180 and 1400), unless the Department explicitly approves an exception
  - (b) the Secretary finds, after notice and hearing, that a party or its principals (including a bidder or prospective bidder) fails to meet due diligence requirements or to exercise due diligence on any OCS lease; or
  - (c) BOEM disqualifies a party from holding a lease on the OCS based on its unacceptable operating performance. BOEM will provide adequate notice and opportunity for a hearing before imposing a disqualification, unless BSEE has already provided such notice and opportunity for a hearing.

# Non-procurement Debarment Rules

- The final rule introduces the application of the Department's non-procurement debarment regulations at 2 CFR parts 180 and 1400.
- § 556.404 details how to comply with the Department's non-procurement debarment rules:
  - Requires notice to BOEM if party knows that it or its principals are excluded, disqualified, have been convicted or are indicted of a crime
  - Requires a party to take certain steps if the party wishes to enter into a covered transaction with another person at a lower tier
  - Requires notice to BOEM after entering into a covered transaction if a party learns that:
    - 1) it failed to disclose pertinent information earlier, or
    - 2) due to changed circumstances, a party or its principals now meet any of the criteria in 2 CFR 180.1800.

# Notice of Mergers/Name Changes/Changes of Business Form

- Qualified entities must notify BOEM of any merger, name change, or change of business form (a/k/a “business conversion”). (§ 556.405)
- Notice must be provided as soon as practicable, but in no case later than one year after the earlier of the effective date or the date of filing the change or action with the Secretary of State or other authorized official in the State of original registry. (§ 556.405)
  - This provision is new; it was included in the proposed rule but is not contained in the previous regulations.



# Lease Sale Notices, Lease Form and Tract Size

- The proposed notice of sale (§ 556.304) and the final notice of sale (§ 556.308) now must reference or provide a link to the OCS lease form to be issued to successful bidders.
  - While the current practice is to provide a reference and a link to the lease form in the PNOS and the FNOS, the previous regulation required only the FNOS to contain a reference.
- The final rule refers to a “final notice of sale.” (§ 556.308)
- The final rule retains the tract size limit of 5,760 acres unless BOEM finds that a larger area is necessary for reasonable economic production but adds a new provision that if BOEM finds that an area larger than 5,760 acres is necessary in any particular area, the size of any such tract will be specified in the final notice of sale. (§ 556.308)

# Restrictions on Joint Bidding

- The final rule retains provisions on restrictions on joint bidding in accordance with the Energy Policy and Conservation Act of 1975, 42 U.S.C. § 6213, which restricts joint bidding on leases for those producing more than an average worldwide daily production of 1.6 million barrels of crude oil and/or its equivalent in natural gas liquids and natural gas during a 6-month period preceding a lease sale. (§ 556.511)
- The final rule is essentially the same as the previous regulations. (§ 556.511 - § 556.515)
  - Many of the provisions in the previous regulations were not included in the proposed rule but have been retained in the final rule.

# Bid Deposit and Information Requirements

- A deposit is required for each bid (§ 556.500)
  - The final notice of sale will specify the amount and method of payment.
  - The final rule adds a new provision stating that unless otherwise specified in the final notice of sale, the default bid deposit amount will be 20 percent of the amount of the bid for any given tract or bidding unit.
- The final rule codifies the current practice that every bidder submitting a bid on a tract, or participating as a joint bidder in such a bid, may at the time of bid be required to submit various information, including a Geophysical Data and Information Statement (GDIS) corresponding to that tract, as well as the bidder's exclusive/proprietary geophysical data in order for BOEM to properly evaluate the bid. (§ 556.501).
  - The information BOEM requires is spelled out in the final notice of sale.
  - BOEM will reimburse bidders for the costs of complying with the requirements of this section, in accordance with § 550.196 (G&G on lease) and/or § 551.13 (G&G off lease).

# Bid Opening/Acceptance/Rejection

- The final rule retains the provision that BOEM opens the sealed bids at the place, date, and hour specified in the final notice of sale for the sole purpose of publicly announcing and recording the bids and that BOEM does not accept or reject any bids at that time. (§ 556.516(a))
- The final rule retains the provision that BOEM must accept or reject all bids within 90 days after bid opening (date of lease sale), or a longer time if BOEM extends the 90-day period. (§ 556.516(b))
- The final rule adds that, in the event of such an extension, BOEM will notify bidders in writing prior to the expiration of the initial 90-day period, or of any extension. (§ 556.516(b))
- The final rule retains the provision that any bid not accepted within the prescribed 90-day period, or any extension thereof, will be deemed rejected. If a bid is rejected, BOEM will refund any money deposited with the bid, plus any interest accrued. (§ 556.516(b))

# Tie Bids

- The final rule retains the previous regulation stating that if the highest bids are a tie, BOEM will notify the bidders who submitted the tie bids. The final rule offers tie bidders a second option. Within 15 days after notification, the bidders, if qualified, and not otherwise prohibited from bidding together, must agree:
  - 1) to accept the lease jointly or
  - 2) that one of the bidders will accept the leaseand so notify BOEM. (§ 556.516(c))
- The final rule does not provide, as the proposed rule does, that if there is no such agreement, BOEM will award the lease to the high bidder selected by lot. Instead, the final rule retains the provision that if an agreement is not timely submitted, BOEM will reject all high bids.

# Bid Rejection and Appeal

- The BOEM authorized officer's decision to accept or reject a bid is the final action on a bid, subject to reconsideration by the BOEM Director (not the Secretary). (§§ 556.500, 556.516 and 556.517)
- Spells out the procedure that bidders can use to request reconsideration by the Director if a bid is rejected. (§ 556.517)
- The Director will issue a written response either affirming or reversing the bid rejection. (§ 556.517)
- The Director's decision on request for reconsideration is not appealable to the IBLA in the Department's Office of Hearings and Appeals. (§ 556.517)

# Lease Award and Execution

- If BOEM accepts your bid, BOEM will provide you with the appropriate number of copies of the lease for you to execute and return to BOEM. The final rule clarifies that the high bidder must execute all copies of the lease, pay the first year's rental and the balance of the bonus bid (including any required bond or other form of security) and return the lease to BOEM within 11 business days after receipt. (§ 556.520)
- Although the previous regulation was interpreted to mean that the lease must be executed and returned by the 11<sup>th</sup> business day after it is received, the final rule continues this policy but makes the language more precise.

# Lease Forfeiture

- The final rule retains the previous provision stating that if the successful bidder fails to execute and return the lease timely or otherwise fails to comply with applicable regulations, the lease is forfeited and the forfeiting bidder will lose its bonus bid deposit. (§ 556.520)
  - The final rule does not include the provision that, in a forfeiture situation, BOEM may take action to collect the full amount bid as § 256.420(c) of the proposed rule does.
  - The final rule does not include a provision to allow BOEM to offer the lease to the second-highest bidder (as proposed by a commenter) as that could violate BOEM's mandate to obtain fair market value for all leases.



# Lease Effective Date

- The final rule retains the previous provision stating that a new lease is effective on the first day of the month following the date that BOEM executes the lease, unless the successful bidder requests in writing, before BOEM executes the lease, that the lease be effective as of the first day of the month in which BOEM executes the lease. (§ 556.521)

# Designation of Operator

- The current BOEM regulations at § 550.143 set forth the requirement to designate an operator and “operator” is defined in § 550.105. As implemented, this requirement applies to all record title owners and to those operating rights owners that own operating rights in the aliquots/depths in which the designated operator will be operating.
- Consistent with these requirements, the final rule includes a new term, “Designated operator,” in part 556:
  - Designated operator means a person authorized to act on your behalf and fulfill your obligations under the Act, the lease, and the regulations, who has been designated as an operator by all record title holders and all operating rights owners that own an operating rights interest in the aliquot/depths in which the designated operator, to which the Designation of Operator form applies, will be operating, and who has been approved by BOEM to act as designated operator. (§ 556.105)

# Designation of Operator, continued

- The final rule includes new provisions to augment § 550.143 to ensure that parties to a transfer are aware of their duties with respect to designation of an operator.
- For transfers of record title interest, see:
  - § 556.701 - How do I seek approval of an assignment of the record title interest in my lease, or a severance of operating rights from that record title interest?
  - § 556.716 - What must I do with respect to the designation of operator on a lease when a transfer of record title is submitted?
- For transfers of operating rights interest, see:
  - § 556.801 - How do I seek approval of an assignment of my operating rights?
  - § 556.810 - What must I do with respect to the designation of operator on a lease when a transfer of operating rights ownership is submitted?

# Primary Term of Oil and Gas Lease

- The final rule uses “primary term” rather than “initial period” to reflect customary terminology, although both terms are defined to mean the same thing. (§ 556.105)
  - Initial period or primary term means the initial period referred to in 43 U.S.C. § 1337(b)(2).
  - Primary term or initial period means the initial period referred to in 43 U.S.C. § 1337(b)(2).
- The final rule retains the previous regulation stating that the primary term will be five years, unless BOEM determines that a longer primary term, up to 10 years, is necessary due to unusually deep water or other unusually adverse conditions. (§ 556.600)
- The final rule removes the previous regulation at § 556.37 stating that the primary term of leases in water depths between 400 and 800 meters will be eight years, subject to administrative cancellation if no exploratory well is begun during the first five years after lease issuance.

# Primary Term of Oil and Gas Lease, continued

- The final rule provides that BOEM will specify the primary term in the final notice of sale and in the lease instrument, giving BOEM flexibility. (§ 556.600)
- The final rule clarifies that a lease will automatically expire at the end of the primary term, or any extension thereof, unless maintained beyond that term in accordance with the provisions of § 556.601. (§ 556.600)

# Lease Interests Defined

- The final rule clearly defines three types of lease interests for the first time:
  - Record title interest
  - Operating rights interest
  - Economic interest
- The final rule distinguishes a record title interest from an operating rights interest that is created by a sublease out of the record title interest, as follows:
  - Lessee means a person who has entered into a lease with the United States to explore for, develop, and produce the leased minerals and is therefore a record title owner of the lease, or the BOEM-approved assignee-owner of a record title interest. The term lessee also includes the sublessee- or assignee-owner of an operating rights interest in a lease. (§ 556.105)
  - Operating rights means an interest created by sublease out of the record title interest in an oil and gas lease, authorizing the owner to explore for, develop, and/or produce the oil and gas contained within a specified area and depth of the lease (i.e., operating rights tract). (§ 556.105)

# Lease Interests Defined, continued

- The definition of “Economic interest” is moved from the definitions contained in the previous regulations at § 556.40 (which applies to joint bidding and restrictions thereon) to the definitions section of the final rule.
  - Economic interest means any right to, or any right dependent upon, production of crude oil, natural gas, or natural gas liquids and includes, but is not limited to: a royalty interest; an overriding royalty interest, whether payable in cash or kind; a working interest that does not include a record title interest or an operating rights interest; a carried working interest; a net profits interest; or a production payment. (§ 556.105)
- Related provisions:
  - An economic interest in production must be counted in the production chargeable to an entity for purposes of determining whether it is on the Restricted Joint Bidders List. (§ 556.514(e))
  - If you create, transfer or assign an economic interest, you must send BOEM a copy of each instrument for record purposes. (§ 556.715(a) and § 556.808(a))

# Monetary Obligations

- The final rule removes a potential conflict between the BOEM regulations and the provisions of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (30 U.S.C. 1712(a)).
- Record title owners are primarily liable only for their pro-rata share of monetary obligations with respect to operating rights retained by them; however, with respect to operating rights subleased to others, the record title owner is secondarily liable, while the sublessees or later assignees of operating rights are primarily liable. (§ 556.604(f) and § 556.605(g))
- If there is more than one operating rights owner in a lease, each operating rights owner is primarily liable for its pro-rata share of the monetary obligations that pertain to the portion of the lease that is subject to its operating rights. (§ 556.604(f) and § 556.605(g))



# Non-monetary Obligations – RT Owners

- Every current and prior record title owner is jointly and severally liable, along with all other record title owners and all prior and current operating rights owners, for compliance with all non-monetary terms and conditions of the lease and all regulations issued under OCSLA, as well as for fulfilling all non-monetary obligations, including decommissioning obligations, which accrue while it holds record title interest. (§ 556.604(d) and § 556.605(e))
- Record title owners that acquired their record title interests through assignment from a prior record title owner are also responsible for remedying all existing environmental or operational problems on any lease in which they own record title interests, with subrogation rights against prior lessees. (§ 556.604(e))

# Non-monetary Obligations – OR Owners

- Current and prior operating rights owners are jointly and severally liable with other operating rights owners, and the record title owners, for all non-monetary lease obligations pertaining to that portion of the lease subject to their operating rights, which accrued during the time they held their operating rights interest. (§ 556.604(d) and § 556.605(e))
- Operating rights owners that acquire their operating rights interests in a lease through assignment from a prior operating rights owner are also responsible, with subrogation rights against prior operating rights owners, for remedying existing environmental or operational problems, to the extent that such problems arise from that portion of the lease to which their operating rights appertain. (§ 556.605(f))

# Assignments by a Record Title Owner

- The final rule provides that a record title owner may, subject to BOEM approval, assign a whole or a partial record title interest in an entire lease, or in any aliquot(s) thereof (§ 556.700(a)) and may sever all, or a portion of, its operating rights. (§ 556.700(b))
- The final rule adds the following requirements that have long been BOEM's practice but were never explicit in the regulations:
  - Within any given aliquot, the record title owner may sublease operating rights for up to a maximum of two depth divisions, which may result in a maximum of three different depth intervals. But, if the one, or two, depth divisions to which operating rights are subleased do not include the entire depth of the lease, whatever depth division(s) has not been subleased remains part of the lessee/sublessor's record title interest. (§ 556.604(c))
  - The depth intervals for which operating rights are subleased must be defined by a beginning and ending depth and the ending of one depth level must abut the beginning of the next depth level, with no gap in between. (§ 556.604(c))

# Lease Segregation

- A segregated lease is created when there is an assignment by all record title owners of 100 percent of the record title to one or more aliquots in a lease, such that the assigned and retained portions become segregated into separate and distinct leases. Both the new lease and the remaining portion of the original lease are referred to as “segregated leases” and the assignee(s) becomes the record title owner(s) of the new lease, which is subject to all the terms and conditions of the original lease. (§ 556.702)
- Rental, royalty and minimum royalty provisions apply separately to each segregated portion, but any remaining royalty suspension volume is allocated by BOEM, on a basis that is equitable under the circumstances, but not to exceed in aggregate the total remaining amount. (§ 556.703)
- The final rule clarifies that each segregated lease must, separately, meet the requirements in § 556.601 to remain in effect beyond the primary term. (§ 556.703)

# Assignments by an Operating Rights Owner

- The final rule clarifies that an operating rights owner, subject to BOEM approval, may assign all or part of its operating rights interests. Each instrument that transfers an interest must describe, by officially designated aliquot parts and depth levels, the interest proposed to be transferred. (§ 556.800)
- The final rule supplements these provisions with new definitions:
  - Aliquot or Aliquot part means an officially designated subdivision of a lease's area, which can be a half of a lease ( $1/2$ ), a quarter of a lease ( $1/4$ ), a quarter of a quarter of a lease ( $1/4 \ 1/4$ ), or a quarter of a quarter of a quarter of a lease ( $1/4 \ 1/4 \ 1/4$ ). (§ 556.105)
  - Operating rights tract means the area within the lease from which the operating rights have been severed on an aliquot basis from the record title interest, defined by a beginning and ending depth. (§ 556.105)

# Effective Date of a Transfer

- The final rule provides that a transfer is effective on the first day of the month after BOEM approves it (not on the first day of the month after it is filed per current § 556.62), unless the parties request an earlier effective date and BOEM approves that earlier date.
- But, such earlier effective date, if prior to the date of BOEM's approval, is effective only between the parties and does not relieve the assignor of obligations that accrued between that earlier effective date and the date of BOEM's approval. See:
  - § 556.712 - effective date of transfer of record title interest
  - § 556.806 - effective date of transfer of operating rights

# Effects of a Transfer on Liability

- § 556.710 – Effect of an assignment of record title interest on the assignor's liability under the lease
  - Assignor remains liable for all monetary and non-monetary obligations that accrued during the period the assignor owned the record title interest, up to the date BOEM approves the assignment.
- § 556.711 – Effect of a record title holder's sublease of operating rights on the record title holder's liability.
  - A record title holder who subleases operating rights remains liable for all obligations of the lease, including those obligations accruing after BOEM's approval of the sublease, subject to §§ 556.604(e) and (f).
  - The sublessee and subsequent assignees of the operating rights become primarily liable for monetary obligations, but the record title holder remains secondarily liable for them.
- § 556.713 – Effect of an assignment of record title interest on the assignee's liability.
  - The assignee and any subsequent assignees are liable for all obligations that accrue after the effective date of the assignment, including the obligation to remedy all existing environmental and operational problems on the lease, properly abandon all wells, and reclaim the site, as required under 30 CFR part 250.

# Effects of a Transfer on Liability, continued

- § 556.805 – Effect of an operating rights owner’s assignment of operating rights on the assignor’s liability
  - An operating rights owner (who does not hold record title) who assigns the operating rights remains liable for all obligations of the lease that accrued during the period in which the assignor owned the operating rights, up to the effective date of the assignment, including decommissioning obligations that accrued during that period. BOEM’s approval of the assignment does not alter that liability.
  - Even after assignment, BOEM or BSEE may require the assignor to bring the lease into compliance if the assignee or any subsequent assignee fails to perform any obligation under the lease, to the extent the obligation accrued before approval of the assignment.
- § 556.807 – Effect of an assignment of operating rights on an assignee’s liability
  - The assignee and any subsequent assignees are liable for all obligations that accrue after the effective date of the assignment.
  - The assignee must comply with all the terms and conditions of the lease and regulations issued under OCSLA. In addition, the assignee must remedy all existing environmental and operational problems on the lease, properly abandon all wells, and reclaim the site, as required under 30 CFR part 250.



# Transfer Rules – RT and OR

- Record Title

- § 556.706 - You may not transfer record title interests in more than one lease to different parties using the same instrument.
- § 556.707 - You may not transfer different types of lease interests (i.e. record title and operating rights) in a lease using the same instrument.
- § 556.708 - You may not transfer your record title interests in more than one lease to the same party using the same instrument.
- § 556.709 - You may assign your record title interest in one lease to multiple parties using the same instrument. A separate fee applies to each individual transfer of interest.

- Operating Rights

- § 556.803 - You may not assign operating rights interests in more than one lease using the same instrument.
- § 556.804 - You may assign your operating rights interest in a lease to multiple parties using the same instrument. A separate fee applies to each individual transfer of interest.

# Transfer Rules – Economic Interests

- The previous regulations at § 556.64 state that you can create or transfer “carried working interests, overriding royalty interests, or payments out of production” without BOEM approval. The final rule, instead of listing these three specific types of interests, states that you may create, transfer, or assign “economic interests” (as defined below) without BOEM approval.
  - Economic interest means any right to, or any right dependent upon, production of crude oil, natural gas, or natural gas liquids and includes, but is not limited to: a royalty interest; an overriding royalty interest, whether payable in cash or kind; a working interest that does not include a record title interest or an operating rights interest; a carried working interest; a net profits interest; or a production payment. (§ 556.105)
- See:
  - § 556.715(a) - You may create, transfer or assign economic interests from record title interests without BOEM approval
  - § 556.808(a) - You may create, transfer or assign economic interests from operating rights interests without BOEM approval

# Transfer Rules – Economic Interests, continued

- The final rule provides that, for record purposes, you must send BOEM a copy of each instrument creating or transferring economic interests within 90 days after the last party executes the transfer instrument.
- For each lease affected by the instrument filed, you must pay the service fee listed in § 556.106.
- Your submission must include evidence of payment via pay.gov.

# Legal Documents Submitted for Record Keeping Purposes Only (“Non-requireds”)

- The final rule provides that, for record keeping purposes, the lessee may voluntarily submit legal documents to BOEM for transactions (other than transfers of economic interests) that do not require BOEM approval.  
(§ 556.715(b) and § 556.808(b))
- If a lessee submits such documents for record purposes not required by these regulations, the lessee must pay the service fee listed in § 556.106 with its document submissions for each lease affected.
- The submission must include evidence of payment via pay.gov.

# Service Fees

- The final rule:
  - Clarifies that a separate fee is due for each transfer of an interest in one lease to multiple parties using the same instrument (§ 556.709 and § 556.804)
  - Provides that service fees apply equally to any document or information submitted electronically pursuant to part 560, subpart E. (§ 556.106(f))

**Service Fee Table (§ 556.106)**

Service—processing of the following:	Fee amount	30 CFR citation
(1) Assignment of record title interest in Federal oil and gas lease(s) for BOEM approval.	\$198	§ 556.701(a)
(2) Sublease or Assignment of operating rights interest in Federal oil and gas lease(s) for BOEM approval.	\$198	§ 556.801(a)
(3) Required document filing for record purpose, but not for BOEM approval (i.e., documents that create, transfer or assign “economic interests”)	\$29	§ 556.715(a) § 556.808(a)
(4) Non-required document filing for record purposes (i.e., other legal documents for transactions that do not require BOEM approval)	\$29	§ 556.715(b) § 556.808(b)

# Service Fees, continued

- The final rule retains some provisions of the previous regulations:
  - BOEM will adjust the fees periodically according to the Implicit Price Deflator for Gross Domestic Product; if a significant adjustment is needed to arrive at a new fee for any reason other than inflation, then a proposed rule containing the new fees will be published in the *Federal Register* for comment. (§ 556.106(a))
  - Evidence of payment via pay.gov of the fees must accompany the submission of a document for approval or filing. (§ 556.106(b))
  - Once a fee is paid, it is nonrefundable, even if your service request is withdrawn. (§ 556.106(c))
  - If your request is returned to you as incomplete, you are not required to submit a new fee with the amended submission. (§ 556.106(d))

# Corporate Seal

- The final rule retains the provisions of the previous regulations requiring you to use a corporate seal when corporations file qualification documents (§ 556.402), execute bonds (§ 556.902 and Forms BOEM-2028, 2028A and 2030), and execute oil and gas leases (Form BOEM-2005).
- However, entities may avoid the use of a corporate seal as follows:
  - Entities may avoid the use of the corporate seal for electronic or non-electronic filing of documents, where it was otherwise required, by a one-time filing of a document containing the entity's corporate seal, signed by an authorized party, and stating that the entity's electronic or non-electronic filings will be legally binding. (§ 556.107)
  - If the State or territory of incorporation does not issue or require corporate seals, the document need not contain a corporate seal, but must still contain the signature of an authorized person, a statement that the State in which the entity is incorporated does not issue or require corporate seals, and a statement that submissions made by the entity will be legally binding. (§ 556.107)

# Bonding or Other Financial Assurance

- The final rule changes the title of Subpart I from “Bonding” to “Bonding or Other Financial Assurance.”
- The final rule does not make any substantive changes to Subpart I of the previous regulations. The only changes are administrative or conforming changes necessary to avoid inconsistency with the rest of BOEM’s regulations.



# Lease Relinquishment

- All record title owners of a lease or any aliquot part(s) of a lease must file three original copies of a request to relinquish with BOEM on Form BOEM-0152, entitled, “Relinquishment of Federal Oil and Gas Lease.”
- A relinquishment is effective on the day it’s filed.
- A relinquishment does not relieve the lessees of any accrued obligations.
- No filing fee is required. (§ 556.1101)

# Part 550:

- Final rule §§ 550.120 and 550.121 did not appear in the proposed rule, but did appear in the previous regulations of BOEMRE, the predecessor to BOEM and BSEE. BOEM found it necessary to use these provisions when evaluating and approving certain types of plans, so the final rule adds them back into the regulations, as follows:
  - § 550.120 - BOEM will regulate all activities under a lease, a right-of-use and easement, and/or a right-of-way to: promote the orderly exploration, development, and production of mineral resources; prevent injury or loss of life; prevent damage to or waste of any natural resource, property, or the environment; and ensure cooperation and consultation with affected States, local governments, other interested parties, and relevant Federal agencies.
  - § 550.121 - Allows BOEM to require additional measures to ensure the use of Best Available and Safest Technology (BAST), as identified by BSEE, to protect health, safety, property, and the environment.

# Part 560:

- Subpart A – General Provisions, revises authority provisions, updates references to applicable laws and consolidates and updates the definitions contained in the prior regulations at 30 CFR part 559.
- Subpart B - Bidding Systems, is unchanged.
- Subpart C – Operating Allowances, reestablishes a provision concerning operating allowances in the BOEM regulations so that ONRR may compute payment obligations using the operating allowance, as follows:
  - **Operating allowances.** Notwithstanding any other provision in these regulations, BOEM may issue a lease containing an operating allowance when so specified in the final notice of sale and the lease. The allowance amount or formula will be specified in the final notice of sale and in the lease. (§ 560.300)
- Subpart D – Joint Bidding, is removed and all of its provisions are now incorporated into final rule part 556, subpart E, under the subheading, “Restrictions on Joint Bidding.”

# Part 560, continued:

- Subpart E – Electronic Filings, is new.
  - § 560.500 - electronic document and data transmissions
    - (a) allows BOEM to notify applicants that it will allow or request them to submit certain information electronically, e.g. qualifications, assignments, and financial assurance.  
Note: TIMS Web already allows industry to electronically submit qualifications and maintain company, change of name, business conversion and merger requests and bonding documents.
    - (b) BOEM reserves the right to require the electronic filing of any financial assurance document(s) or information upon a 90-day notice published in the *Federal Register*.
    - (c) if BOEM sends documents to a party in a secure electronic format, they may either return the document(s) in an electronic format utilizing the same secure transmission mechanism or print the document(s) and return them.
    - (d) - BOEM may electronically acknowledge, approve, sign, or execute any document(s) referenced in this section.
  - § 560.501 – the confidentiality of any electronically submitted information will be maintained for the same proprietary term that would apply to the corresponding non-electronic confidential submission.
  - § 560.502 – any document or information referenced in § 560.500, which is submitted to BOEM through a secure electronic filing system that is approved by BOEM, will be legally binding, without the need for a paper copy thereof.

# BOEM Leasing & Adjudication Contacts

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